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SPAIN

Country Reference Guide

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Introduction

Spain is a southern European country. Spanish is the official language and Catalan, Basque and Galician are co-official languages. Spain is a member of the European Union. It is estimated that foreign multinationals located in Spain account for more than 50% of the country's exports. Spain has 47 million people and is economically significant in the Eurozone. It is also known for many international destinations, including the Canary Islands, Mallorca, and Ibiza. Madrid is home to the headquarters of numerous international and national companies.

Legal Framework

Employment law in Spain is governed by the Constitution and the Workers' Statute. The Spanish Constitution provides workers' rights such as strike, equal pay and promotion. The statute of workers contains the basic regulation of labor relations in Spain. There are specific Labor Courts that have jurisdiction over disputes between employers and employees pursuant to both individual and collective claims.

Other relevant laws include but are not limited to:

- Law 35/2006 – Tax Law (Personal Income Tax);
- Law 27/2014 – Tax Law (Corporate Tax);
- Royal Decree 8/2015 – Social Security;
- Law 31/1995 – Work Risk Prevention; and
- The Organic Law 3/2018 – Personal Data Protection Law.

Employment Contracts

Indefinite employment contracts may be verbal or in writing.

Employment contracts that must be in writing include those for:

- discontinuous fixed services,
- training,

- part-time work,
- fixed term of more than 4 weeks,
- remote working, and
- employment outside Spain.

Employees in Spain work under a collective bargaining agreement (CBA). An employee's CBA controls the terms of an employee's employment contract.

A written employment contract must include:

- the identity of the employer and employee,
- start date,
- the contract's duration, unless the contract is indefinite,
- the location of the employer and where the employee will perform work,
- job description,
- salary details,
- working hours,
- holiday details, and
- the termination notice period.

Types of Employment Contracts

The main types of employment contracts in Spain are:

- indefinite,
- fixed term, and
- training.

Indefinite employment contract. Indefinite-term employment contracts do not have a fixed end date. They may be:

- full-time,
- part-time, or
- discontinuous.

Discontinuous fixed contracts. Employers can use discontinuous fixed contracts for:

- seasonal work, or
- temporary production activities.

Fixed-term contracts. A fixed-term employment contract has a fixed or specific duration. Employers can use a fixed-term contract for:

- a temporary or substitute employee who is covering another employee on extended leave, or
- production needs.

The maximum duration for fixed-term contracts is:

- 3 months for substitution of an employee,
- 6 months for production-related issues, and
- 90 days for occasional business circumstances.

A fixed-term contract for a substitute employee must include:

- the name of the replaced employee, and
- the reason for the temporary replacement.

Fixed-term contracts become indefinite. An employee with a fixed-term contract becomes a permanent employee if:

- the employee works after the end of the fixed term, or
- the employer did not register the employee with social security.

Government and union notification. When entering or changing an employment contract, employers must notify:

- the State Public Employment Service (SEPE), and
- the union.

Probation period. The probation period cannot exceed:

- 2 months for indefinite contracts,
- 3 months for small businesses with less than 25 employees,
- 1 month for temporary contracts, and
- 6 months for technicians.

Whistleblower. Effective March 13, 2023, employers with more than 50

employees must implement an internal information system so that employees can report violations of the legal provisions during the employment relationship.

Remote Work

Employers may allow employees to telework:

- from home, or
- at a place the employee chooses.

The employer may choose whether employees may work full-time or part-time outside the workplace. The employer must be sure employees who telework use a computer or information system at least 30% of the time.

A telework agreement does not have to be permanent, but employees must agree to a change in the agreement. A telework agreement must be in writing and include:

- an inventory of the equipment,
- a calculation of the remote work's expenses,
- the working hours and rest,
- the time spent working face-to-face and remotely,
- the workplace the employee reports to,
- the location where the employee teleworks,
- the notice periods for the employee to exercise their right to return to the office,
- the procedures to follow if the employee has technical difficulties,
- a description of how the employer will supervise the work,
- duration of the agreement, and
- instructions for data protection and information security.

Telework expenses. Employers must pay for a teleworking employee's remote work expenses.

Right to disconnection. Employers cannot contact employees after working hours.

Apprenticeships

Spain allows employers to offer alternating training and internships.

Alternating training. Employers can hire vocational or university students less than 30 years old under alternating training contracts. A contract must include a training plan for the apprentice. The agreement must be:

- a minimum of 3 months, and
- no more than 2 years.

Age and time limits do not apply for:

- disabled employees, or
- socially excluded employees.

See *Nondiscrimination & Special Protections*.

Employers cannot include probation periods in alternating training contracts.

Paycheck withholding requirements apply to employees under training contracts.

See *Social Security & Payroll Tax*.

Alternating training contracts may turn into indefinite contracts if employers do not comply with the laws of alternating training contracts.

Internships. Employees can hire interns for a period between 6 months and 1 year.

Changes to Employment Contracts

Employers may change the employment contract with the agreement of the employee. The change must be:

- in writing, and
- signed by both the employer and the employee.

Digital Signatures

Employers can use digital signatures for employment contracts. The EU Regulation on digital signatures applies.

Hiring

In Spain, employers must confirm job applicants are eligible to work and may do background checks before hiring.

Employers with 50 or more employees must ensure disabled workers make up at least 2% of their workforce. See *Nondiscrimination & Special Protections*.

Eligibility for Work

An employer must confirm that potential employees are:

- over 18 years old,
- legally emancipated if they are between 16 and 18 years old,
- live independently with the consent of their parents or guardians if they are between 16 and 18, or
- have a work visa if they are a non-citizen. See *Basic Visa Information*.

Individuals under 16 years of age may work in the theater or television industries.

However, they need authorization from:

- both parents, and
- the local labor inspector of the Ministry of Labor.

Employers must register employment contracts with the State Public Employment Service (SEPE). See *Employment Contracts*.

Background Check

Employers must have a potential employee's consent before doing a background check on the employee. Employers may conduct different types of checks for:

- criminal records,
- handwriting,
- credit and financial,
- social media and internet search,
- drug and alcohol testing, and
- union membership.

Health checks. Employers must pay for employees to get a health check when hiring for a position in a hazardous or unhealthy workplace.

Nondiscrimination & Special Protections

Employers in Spain must comply with laws prohibiting discrimination in Spain's Constitution and Workers' Statute.

Law & Protected Groups

Employers must protect employees against discrimination based on:

- racial or ethnic origin,
- religion or belief,
- disability,
- age or sexual orientation,
- gender, or
- union membership.

Effective March 1, 2023, Law 4/2023 ensures the equality of trans persons and guarantees the rights of LGBTQ persons.

Compliance with Nondiscrimination Laws

Employers with more than 50 employees must ensure 2% of their workforce consists of disabled employees.

Discrimination within employment agreements. In Spain, employment contracts, collective agreements and unilateral decisions are invalid if they violate non-discrimination laws.

Wage discrimination. Employers must provide equal pay for equal work, including base salary, bonuses and other types of remuneration. Employers who do not comply with equal pay requirements may:

- have their compensation policies audited, and
- be required to take corrective actions to prevent future discrimination.

Gender discrimination. Employers must establish clear promotion and career advancement criteria that prevent discrimination between women and men.

Effective Sept. 7, 2022, employers must promote working conditions that prevent

Wages, Bonuses & Other Remuneration

harassment based on gender. Employers must:

- set procedures for victims to make complaints or claims in the workplace,
- offer training on sexual violence,
- include sexual violence as a labor occupational risk for female employees, and inform and train them on this risk, and
- establish measures with employee representatives to develop and share codes of good practice, informational campaigns, and action plans.

Effective June 30, 2023, employers cannot discriminate against employees who exercise their rights to family-friendly work arrangements or work-life balance.

In Spain, employers must comply with minimum wage laws and collective bargaining agreements (CBAs). Employers may pay salaries in cash, Euros (EUR), or goods. Payment in goods cannot exceed 30% of the employee's salary.

Minimum Wages

Effective Jan. 1, 2023, the minimum wage is:

- EUR 36 per day, or
- EUR 1,080 per month.

Before Jan. 1, 2023, the minimum wage was:

- EUR 33.33 per day, or
- EUR 1,000 per month.

Salary paid in kind is not counted toward the employee's minimum wage.

Work visa wage. Employers must pay highly qualified professionals at least 1.5 times the average gross annual salary of the employee's profession. However, if the profession has a particular need or if the *Clasificación Internacional Uniforme de Ocupaciones* (CIUO) includes it in groups 1 or 2 of their rankings, the salary may be 1.2 times the average gross annual.

Bonuses

Employers must pay 2 statutory bonuses a year. The total amount must be at least the employee's monthly salary. Employers must follow the timing and amount of payment in CBAs. One bonus must be around the Christmas holiday.

Recordkeeping Rules

Employers must record the salaries of all employees, including salary bonuses and non-wage payments. In addition, the record must contain the executives' and senior managers' salaries. Employers must record wages by:

- gender,
- professional groups, and
- jobs of equal value.

| Working Hours

Working Hours

The standard workweek is 40 hours. Daily working hours cannot exceed 9 hours. Employers must follow collective bargaining agreement (CBA) terms for working hours for employees under a CBA.

Recordkeeping. The employer must keep records of working hours for 4 years.

Overtime Hours

The maximum overtime allowed is 80 hours per year. Employers may ask employees to work more than 80 hours a year when the work is:

- extraordinary, or
- urgent, such as a natural disaster.

Restrictions on overtime. Employees may perform overtime at night only when the labor department expressly authorizes the overtime.

Employees under 18 years old cannot work overtime.

Overtime pay. An employer can pay overtime:

- at the standard rate, or

- with rest time.

Night Work

Night work is between 10 p.m. and 6 a.m. Night workers are those employees who work 3 or more hours at night. Night work may not exceed an average of 8 hours a day over 15 days.

Employers must inform local labor authorities if they employ night workers.

Night work rate. Employers in some industries and collective agreements have to pay extra for night work.

Shift work. Employers who operate 24 hours a day must rotate shifts so that employees work no more than 2 consecutive weeks at night. However, an employee can volunteer to work more than 2 weeks of night shifts in a row.

Rest Hours

Employers must provide daily, weekly and workday rest to employees.

Workday rest. Employers must give 15 minutes of rest after 6 hours. For minors, the rest is 30 minutes.

Daily rest. Employers must give employees at least 12 hours of rest daily.

Weekly rest. Employees are entitled to at least 1.5 days of rest in a week.

Employers must provide rest on:

- Sunday,
- Saturday afternoon, or
- Monday morning.

Employees may accumulate up to 14 days of weekly rest.

Minor employees. Employers must give employees under 18 years old two days of rest in a row each week.

Breastfeeding. Employers must provide employees a 1-hour break to nurse children for up to nine months. The time increases by 1 hour for each additional

child. Employers may allow employees to reduce working hours instead of taking a break.

Flexible Work

Spain has several laws that allow employees to work reduced hours. When an employee works a reduced hours schedule, they must agree to:

- a proportional reduction in salary, and
- a working hours arrangement.

Family balance working hours. Effective June 30, 2023, employees have the right to request flexible hours and remote work for work-life balance if they have:

- children under age 12, or
- family members who need care.

Family members include:

- children over the age of 12,
- spouse or common-law partner,
- relatives by blood up to the second degree of consanguinity, or
- other dependents living in the employee's home because of age, accident or illness.

The employee's request is presumed granted if the employer does not deny it in 15 days. The employee may return to their prior work hours after their family care needs end.

Gender violence and reduced hours. Employees who are victims of gender violence have the right to reduced working hours.

Care and reduced hours. Employees may be entitled to reduce their work hours for:

- the premature birth of a child who remains hospitalized after birth,
- direct care of a child under 12 years old or a disabled person who does not work,
- direct care of a relative, up to the second degree of affinity, who is unable to

work or care for themselves due to age, accident or injury, or

- care of a child under age 23, including a foster child or ward, who is hospitalized or undergoing continuous treatment for cancer or any other serious illness.

Public Holidays

Spain officially observes 9 national public holidays. Regions and cities observe additional holidays. The government may move national holidays that occur during the week or the weekend to a Monday.

Payment for National Public Holidays

Employers must pay employees for holidays that fall on working days.

An employee may work on a holiday. The employer pays the hours worked increased by at least 75%, except for compensatory rest.

List of Public Holidays

Annual Leave

Annual Leave

An employer must provide 30 calendar days of paid annual leave. The employee must take 30 days of annual leave, or vacation, all at once.

The employer and the employee may agree to increase the days of the annual leave. However, the employer must follow the employee's Collective Bargaining Agreement (CBA).

The employer may schedule an employee's annual leave or work with employees to schedule when they will use their leave.

Spanish law does not permit payment in lieu of leave, even if the employee requests it.

Posting annual leave schedule. An employer must post the annual leave

schedule of an employee in the workplace at least 2 months before the employee's leave begins.

Employees on disability leave. If vacation time overlaps with disability leave, the employee may take the vacation days immediately after disability leave ends.

Carryover Leave

An employee cannot carry over annual leave to another year.

Sick & Carer's Leave

Sick Leave

Employers must give employees 12 months of government-paid sick leave. Employees can ask for an additional 6 months. Social security pays for sick leave from the fourth day of illness.

Sick pay. Employers do not need to pay for the first 3 days of sick leave, although collective bargaining agreements (CBA) may require it.

Social security pays:

- 60% of the regulatory base from the 4th through the 20th day, and
- 75% of the regulatory base after the 21st day.

Eligibility for social security pay. Employees must have made at least 180 days of contributions in the 5 years before taking sick leave to be eligible for sick pay. Employees must present a medical certificate from a doctor's affiliate in the Public Health System to their employer.

Effective April 1, 2023, employees on sick leave for up to 365 days will not be required to submit the medical leave certificate. Instead, Social Security – INSS will send it directly to employers.

Carers' Leave

Employers must give employees time off to care for family members:

- 1 hour per day to care for a child until that child reaches 9 months old, and
- 1 hour per day for the birth of a premature child who remains in the hospital.

Effective June 30, 2023, employees may take 5 days' paid leave to care for their:

- spouse,
- domestic partner,
- second-degree relative, or
- other household member.

The person needing care must have had:

- a serious accident or illness,
- hospitalization, or
- outpatient surgery.

Also, effective June 30, 2023, employees may take off work in an emergency for a family member's unexpected illness or accident. The employer must pay the employee's salary for hours missed, up to 4 days a year.

Family care hour reduction. Employees can work fewer hours per week to care for family members with a decrease in pay to care for:

- a premature child who is hospitalized,
- a child under 12 years old,
- a disabled person who is unemployed,
- a relative, up to the second degree of affinity, who is sick or injured, or
- a child under 23 years old hospitalized for cancer or other serious illness.

Maternity, Paternity & Family Leave

Maternity Leave

Female employees are entitled to 16 weeks of government-paid maternity leave.

Employers must provide a minimum of 6 weeks of leave immediately after the birth.

In some cases, employees may take longer maternity leave:

- up to 18 weeks for twins or multiple births,
- up to 20 weeks for triplets, and
- up to 13 weeks for a child hospitalized for more than 7 days.

Maternity leave pay. Employers are not required to pay employees while they are on maternity leave. Employees receive maternity leave pay from Spain's social security system. An employee must be eligible to receive payments.

Eligibility depends on the employee's age and the contributions they have made to social security.

Prenatal leave. Employees may take paid leave as needed for prenatal examinations and childbirth preparation training.

Paternity Leave

Employers must provide male employees 16 weeks of government-paid paternity leave. The employee must take the first 6 weeks of leave immediately after birth.

Paternity leave pay. As with maternity leave, employees receive paternity leave from social security. An employee's eligibility for pay depends on their age and the social security contributions they have made.

Adoption Leave

Employers must give employees 16 weeks of paid leave for adopting or fostering a child. Employers must provide:

- 6 weeks immediately after the judicial decree, and
- the remaining weeks within 12 months.

Adoption leave benefit. Employees may receive payments from Spain's social security for the adoption of a child. Eligibility depends on the age of the employee and their contributions to social security.

Leave before adoption. Employees seeking to become adoptive or foster parents may take paid leave as needed to attend mandatory education sessions

and to complete pre-approval psychological and social testing.

Additional Parental Leave

Effective June 30, 2023, employees are entitled to unpaid parental leave for the care of a son, daughter, or foster child until the child reaches 8 years of age.

This leave is up to 8 weeks. Employees may take the leave:

- continuously,
- discontinuously,
- full-time, or
- part-time.

The employee must notify the employer 10 days in advance of the start and end date of the leave.

Leave of absence. Employees are entitled to unpaid leave for up to 3 years to take care of their biological, adoptive, foster child or ward.

During this leave, the employee will:

- count time toward seniority,
- not receive a salary, and
- not accrue paid annual leave.

Other Types of Leave

Employees are entitled to other types of paid leave:

- 15 calendar days to get married or, effective June 30, 2023, to register a domestic partnership,
- 2 days for the death of a spouse, domestic partner, or relative up to the second degree of consanguinity or affinity, plus 2 additional days for travel if necessary,
- 1 day for moving to a new home,
- unlimited leave to fulfill a public or personal duty established by law or conventional norm,
- unlimited leave for union functions and, effective June 30, 2023, employee councils and representation functions, and
- effective June 1, 2023, 3 to 5 days for menstrual leave if a medical certificate is presented (social security pays for menstrual leave).

Healthcare

Universal Health Care

Spain provides public health care to eligible individuals. Social security payments fund the system. See *Social Security & Payroll Taxes*.

Public health care in Spain, called *Servicio Nacional de la Salud (SNS)*, provides:

- primary care,
- specialized care,
- emergency care,
- pharmacy services,
- health services, and
- information and health documentation.

To be eligible, the individual must:

- be a legal resident of Spain, and
- register with the *Instituto Nacional de la Seguridad Social (INSS)*.

EU residents can access the public health care system for up to 3 months with their European Health Insurance Card.

Individuals who do not qualify for public health care can still access it for a monthly fee.

Private Health Care

People can buy private health insurance in Spain. Employers may choose to offer private health insurance to their employees.

Taxes

Individual Taxes

Spain taxes resident and non-resident individuals:

- Resident individuals pay personal income tax (PIT), called *Impuesto sobre la Renta de las Personas Físicas*, on their worldwide income; and
- Non-residents pay non-resident income tax (NRIT) on their Spain-source income.

Tax Residence

An individual is a resident of Spain if:

- they spend more than 183 days in Spain during the calendar year, or
- Spain is their main center of economic activity.

The tax year for individuals in Spain is the calendar year, from Jan. 1 to Dec. 31.

Individual Income Tax Rates

PIT. Taxable income includes:

- general taxable income, and
- savings taxable income.

Different tax rates apply to each type of income.

General taxable income includes:

- employment, business and professional income, and
- capital gains not generated from the transfer of assets (e.g., lottery winnings).

Savings taxable income includes investment-related income such as:

- dividends,
- interest, and
- capital gains from the transfer of assets.

General taxable income is taxed at progressive rates that are the sum of:

- the national rate, plus
- the autonomous community rate.

The effective tax rate depends on the autonomous region where the taxpayer lives.

The national rates and annual income brackets in euros (EUR) are:

- up to 12,450 — 19%
- 12,451 to 20,200 — 24%
- 20,201 to 35,200 — 30%
- 35,201 to 60,000 — 37%
- 60,001 to 300,000 — 45%
- above 300,000 — 47%

Employers withhold income tax from employment income. See *Social Security and Payroll Taxes*.

Savings income is taxed at the following rates in 2023, with annual income brackets stated in euros:

- up to 6,000 – 19%
- 6,001 to 50,000 – 21%
- 50,001 to 200,000 – 23%
- 200,001 to 300,000 – 27%
- above 300,000 – 28%

In 2022, the annual income brackets and rates were:

- up to 6,000 – 19%
- 6,001 to 50,000 – 21%
- 50,001 to 200,000 – 23%
- above 200,000 – 26%

NRIT. Non-residents of Spain pay NRIT on Spain-source income at:

- 24%, or
- 19% if they are a resident of a European Union (EU) or European Economic Area (EEA) country.

A non-resident may request a rebate of NRIT paid at 24% by filing Form 215 with the Tax Agency if they are moving to an EU or EEA nation within a 183-day time limit.

The NRIT rate on employment income above EUR 600,000 is 47%.

Beckham law. Foreign nationals who move to Spain for work and who otherwise would be considered Spanish tax residents can apply to be taxed as non-residents under the Special Expats' Tax Regime (*Régimen Especial para Trabajadores Desplazados*), commonly known as the "Beckham law."

Ordinarily, a foreign national who lives and works in Spain for more than 183 days would be a tax resident under Spanish law. However, if the foreign national qualifies for and opts into the Beckham law, their income earned in Spain will be subject to NRIT at 24%.

To qualify for the Beckham law, a foreign worker must:

- move to Spain for work,
- be a tax resident of Spain,
- apply to the Spanish Tax Agency within 6 months of starting work in Spain,
- not have been a tax resident in Spain in the last 5 years, and
- not receive income from or through a permanent establishment in Spain.

Effective Jan. 1, 2023, Spain expanded the categories of eligible activities in Spain to include:

- The employee has an employment contract with a Spanish employer;
- The employee is posted to Spain on an international assignment;
- The employee works remotely in Spain or holds a telework visa;
- The person is a director at a Spanish company;
- The person is engaged in an innovative entrepreneurial activity; or
- The person is a highly qualified professional rendering services to start-ups or other innovation activities.

Before Jan. 1, 2023, a foreign national had to have been:

- a non-resident of Spain for the prior 10 years, and
- employed by a Spanish employer or posted to Spain on an international assignment.

The special regime applies for the first calendar year that the foreign employee

works in Spain for more than 183 days. The employee can reapply for up to 5 subsequent tax periods.

Payment of Tax

Resident individuals file tax returns and pay taxes between May 2 and June 30 each year for income earned in the prior year. The exact deadline is announced each year by ministerial order. Taxpayers credit amounts that their employer withheld from employment income against tax owed.

Non-residents are required to file tax returns and pay tax quarterly.

Social Security & Payroll Taxes

Spain's social security system covers:

- sick leave,
- retirement,
- maternity,
- unemployment, and
- professional training.

Employers pay up to 33.1% and employees pay up to 6.5% for social security.

Interns and trainees. Effective Oct. 1, 2023, students in paid and unpaid training programs and internships are covered by social security.

Employer Contribution Rates

Employers pay:

- general benefits – 24.1%
- unemployment – 5.5%, or 6.7% for employees on fixed-term contracts
- wage guarantee fund – 0.2%
- professional training – 0.6%
- workplace accident insurance – 1.5% for office work

An employer pays up to 33.1% of salary for an office employee on a fixed-term

contract.

The general benefit employer rate of 24.1% is effective Jan. 1, 2023. Before Jan. 1, 2023, the general benefit rate was 23.6%.

Effective Jan. 1, 2023, employers contributing to a qualified occupational pension plan pay less in social security contributions.

Employee Contribution Rates

Employees pay:

- general benefits – 4.8%
- unemployment – 1.55%, or 1.6% if on a fixed-term contract
- professional training – 0.1%

Thus, an employee pays up to 6.5% of their salary for social security.

The general benefit employee rate of 4.8% is effective Jan. 1, 2023. Before Jan. 1, 2023, the general benefit rate was 4.7%.

Contribution Base

Employers and employees make contributions on salary above the minimum monthly salary base and below the maximum base.

In 2023, the monthly salary bases in euros (EUR) are:

- minimum – 1,260
- maximum – 4,495.50

In 2022, the bases were:

- minimum – 1,166.70
- maximum – 4,139.40

Different minimums apply for several categories of professions, including:

- engineers and university graduates,
- technicians and assistants,
- clerical and workshop supervisors,

- administrative assistants, and
- laborers.

Starting in 2025, employers and employees will make contributions at lower rates on salaries above the maximum base.

Retirement Age

The retirement age in Spain is:

- 2022 – 66 years 2 months
- 2023 – 66 years 4 months
- 2024 – 66 years 6 months
- 2025 – 66 years 8 months
- 2026 – 66 years 10 months
- 2027 - 67 years

Employees may retire up to 2 years before their standard retirement age with a permanently reduced pension payment.

To qualify for a minimum state pension, which is 50% of a full pension, an individual must have made social security contributions for at least 15 years, and at least 2 of those years must be within the 15-year period immediately preceding the pension claim.

Employees who defer their pension can receive either:

- a 4% higher pension payment,
- a lump-sum payment of up to EUR 12,000, or
- a combination of these 2 bonuses for each year that they defer their pension.

Spain offers flexible and partial retirements for employees who continue to work part time. Employers and employees do not make social security contributions for employees who work past the standard retirement age.

Retirees submit pension applications to the *Instituto Nacional de la Seguridad Social* (INSS).

Payroll Taxes

Employers withhold an employee's income tax and social security contributions and pay these amounts with the employer's social security contributions monthly to the *Agencia Estatal de Administración Tributaria* (AEAT), commonly known as *Agencia Tributaria*. Employers' payroll returns on Form 111 and payments are due by the 20th day of each month for the prior month.

Corporate & Business Taxes

Spain imposes tax on resident companies' worldwide income. Non-residents pay tax on their Spain-source income.

A company is resident in Spain if:

- It incorporated in Spain;
- Its registered office is in Spain; or
- Its place of effective management is in Spain.

Corporate Income Tax

The general corporate income tax rate in Spain is 25%.

Effective Jan. 1, 2023, the tax rate for entities with a net turnover of up to 1 million euros (EUR) is 23%.

New companies pay tax at a flat rate of 15% in the first year they make a profit.

A company must file its annual tax return 6 months and 25 days after the end of its tax period. For calendar year taxpayers, the deadline is July 25.

VAT/GST, Indirect Taxes

The value-added tax (VAT) rates are:

- standard – 21%
- reduced – 10%
- super reduced – 4%

Effective Jan. 1, 2023, Spain reduced some VAT rates:

- olive oil, seed oils and pasta – reduced from 10% to 5%, and
- flour, bread, milk, cheese, eggs, fruits and vegetables - reduced from 4% to zero.

These reductions were scheduled to expire on June 30, 2023. On June 12, 2023,

Spain extended the reduced rates.

Withholding Taxes

The withholding tax rates are:

- dividends – 19%
- interest – 19%
- royalties – 24%, or 19% if the recipient company is in an EU or EEA member country

Tax Treaties

Spain has double tax treaties with approximately 92 countries, including the United States.

Termination & Severance

Termination of Employment

Spain does not have at-will employment. An employer and an employee must have an objective reason to terminate an employment contract.

Employers must give notice to employees when dismissing an employee.

Reasons for Termination

Employers may dismiss employees for objective or disciplinary reasons. The employer's rights and obligations depend on the reason for the termination and the terms of the employment contract or collective bargaining agreement (CBA).

Objective dismissal. An employer can dismiss an employee for objective reasons, such as:

- employee inaptitude, or
- inability to adapt.

Disciplinary dismissal. Employers can discipline or dismiss an employee for certain conduct or behaviors, such as:

- repeated unexcused absences,
- repeatedly being late,
- disobedience,
- physical or verbal abuse directed at the employer, co-workers, or their family members,
- breach of the contract or trust in job performance,
- continued and voluntary decrease in productiveness,
- persistent drunkenness or drug addiction,
- harassment based on race, ethnicity, religion, disability, age, or sexual orientation of employer or co-workers, and
- sexual harassment of employees or co-workers.

Effective June 30, 2023, an employer may not terminate an employee because they exercised their rights to family-friendly work arrangements or work-life balance. See *Nondiscrimination & Special Protections*. An employee terminated on these grounds will be reinstated and re-registered in social security.

Notice for termination. Employers must give an employee 15 days' notice of termination. Also, they must give the employee a termination letter stating:

- the reason for the dismissal, and
- the date of the employee's last day of work.

Employers can provide pay instead of notice.

Mutual Termination

Employers and employees can mutually agree to terminate an employment contract. Notice of termination and severance is not required in this case.

Individual or collective bargaining agreements may set different rules.

Terminating a Fixed-Term Contract

Employers may terminate an employee before the end date of a fixed-term contract.

Unlike indefinite-term contracts, employers must give a fixed-term contract employee 15 days' notice only when the employee has worked more than a year. Employers also must give employees on a fixed-term contract a termination letter that states:

- the reason for the dismissal, and
- the date of the employee's last day of work.

Severance

Employers need to pay severance when they terminate an employee with an objective dismissal. Severance pay depends on the employment contract:

- 20 days of salary for each year of service up to 12 months for objective dismissal, or
- 12 days of salary per year of service upon the termination of a fixed-term contract.

Severance or *finiquito* settlement. With the severance payment, employers also must pay for the employee's:

- proportional days of overtime, and
- accrued but unused vacation and other benefits.

Termination during the probation period. Employers don't need to pay compensation when terminating the employment during the probation period or at the end of it.

Main types of visas

Intra-Company Transfer Permit: Available to those working in Spain for more than 90 days but up to 3 years. This visa allows the applicant to work in any EU

nation. Companies can register as a *Unidad de Grandes Empresas* (UGE) under Spain's Entrepreneurs' Law, which simplifies the process of transferring an employee by obtaining prior blanket approval. This speeds up applications as it removes the need for proof of qualifications and experience.

The process time is 2 months to 5 months.

- Step 1: Entry to Spain is 1 day, with an estimated time from start of 1 week;
- Step 2: Residence Authorization Application is 1 month, with an estimated time from start of 3 months; and
- Step 3: Residence Card Application is 2 weeks, with an estimated time from start of 3 months.

Highly Qualified Employees: This provides temporary residence to applicants who met certain requirements under the Entrepreneurs' Law. The applicants must be a manager or specialist with 3 years of relevant work experience or a university education and have a minimum salary of EUR 54,142 if they are a director or EUR 40,077 if they are a specialist. This was previously called the "EU Blue Card."

The process time is 1 month to 8 months.

- Step 1: Residence Authorization Application is 1 month, with an estimated time from start of 1 month;
- Step 2: Visa Type D Application is 2 weeks, with an estimated time from start of 5 months;
- Step 3: Entry to Spain is 1 day, with an estimated time from start of 5 months; and
- Step 4: Residence Card Application is 2 weeks, with an estimated time from start of 5 months.

The process time (from within Spain) is 2 months to 5 months.

- Step 1: Entry to Spain is 1 day, with an estimated time from start of 1 week;
- Step 2: Residence Authorization Application is 1 month, with an estimated time from start of 3 months; and
- Step 3: Residence Card Application is 2 weeks, with an estimated time from start of 3 months.

Local Hire Work Permit: This is for small businesses seeking to hire non-EU nationals in Madrid who do not meet the UGE criteria. This permit must be processed by the local immigration office.

The process time is 4 months to 10 months.

- Step 1: Local Hire Work Permit Application is 4 months, with an estimated time from start of 7 months;
- Step 2: Visa Type D Application is 2 weeks, with an estimated time from start of 7 months;
- Step 3: Entry to Spain is 1 day, with an estimated time from start of 7 months;
- Step 4: Social Security Registration is 1 day, with an estimated time from start of 7 months; and
- Step 5: Residence Card Application is 2 months, with an estimated time from start of 9 months.

Van der Elst: This allows non-European Economic Area citizens to move from 1 EU nation to another for projects up to 3 months long without needing a new work permit. If the stay is beyond 3 months, a residence visa is required. If the stay is longer than 6 months, a residence card is required.

Data & Personal Privacy Information

Spain has strict requirements regarding data protection and privacy governed by the:

- Lisbon Treaty,
- Spanish Constitution, Article 18(4),
- General Data Protection Regulations (GDPR), and
- Spanish Law 3/2018 on Personal Data Protection and Digital Rights.

There also are multiple industry-specific laws and regulations including, but not limited to, Law 25/2007 on the Retention of Data Generated or Processed in Connection with Electronic or Public Communications Networks, Law 41/2002 related to medical information and Law 26/2006 related to the insurance industry.

The General Data Protection Regulations (GDPR) governs how data related to

European citizens and residents is used, collected and protected. Implemented May 25, 2018, GDPR is the principal data protection legislation in Spain and the rest of the European Union (EU). Because it is designed to protect EU citizens and residents, it applies to any professional or commercial organization that handles such data regardless of where that organization is located. Thus, it applies not only to organizations located in the EU, but to any organization providing goods and services within the EU, or to organizations that monitor their behavior.

There are several important terms related to GDPR that organizations need to know:

- **Personal data** is any information related to an individual who can be directly or indirectly identified. This includes, but is not limited to, names, addresses and email addresses.
- **Data processing** is any action performed on data, whether it is automatic or manual. This includes, but is not limited to, collecting, recording, organizing, storing, using and deleting.
- **Data subject** is the person whose information is processed. This includes, but is not limited to, employees, employment candidates, customers, contractors and vendors.
- **Data controller** is a person who decides how and why data will be processed.
- **Data processor** is any person, authority, agency or other body that processes data on behalf of the data controller.
- **Data protection authority** is the organization within each EU member responsible for overseeing GDPR compliance.

GDPR generally requires organizations that process data:

- do so in a lawful, fair and transparent manner,
- do so only for a legitimate purpose explicitly known to the data subject at the time the data is collected,
- keep the data accurate and up to date,
- store the data only for as long as necessary for the stated purpose,
- maintain the security, integrity and confidentiality of the data, and
- demonstrate that they are compliant with GDPR requirements.

Processing of data is lawful if:

- the data subject gave free, informed and unambiguous consent to process the data for a specific purpose,
- the data is necessary to execute or prepare a contract that includes the data subject,
- the data is required to comply with a legal obligation,
- it is required to save someone's life,
- it is required to perform a task within the public interest, and
- there is a legitimate interest to process someone's data.

There are more restrictive rules for processing special categories of personal data, including data related to race, religion, sexual orientation, health, genetics and biometrics.

The reason for processing must be documented and communicated to the data subject. Any change in the reason for processing the data also needs to be documented and communicated.

Appropriate technical and organizational steps must be taken to secure data. This includes, but is not limited to, implementing a data privacy policy, training employees, employing encryptions and multi-factor authentications, as well as having data processing agreements and contracts in place with third-party providers. In Spain, failure to implement appropriate technical and organizational measures to ensure the security of data is considered a serious violation.

Data controllers must provide the following information to data subjects at the time the data is collected:

- data controller's name and the contact information,
- contact details of the data protection officer (if applicable),
- the purposes and legal basis for the data processing,
- the legitimate interests of the data controller (if it is the legal basis for the data processing),
- the recipients or categories of recipients of the personal data,

- information related to the transfer of personal data to a third country or international organization (if applicable),
- the period for which the personal data will be stored, or the criteria used to determine that period,
- the data subject's right to rectification or erasure of personal data, to restrict or object to processing as well as the right to data portability,
- the right to withdraw consent (under certain circumstances) without affecting the lawfulness of processing based on consent before its withdrawal,
- the right to lodge a complaint with a data protection authority,
- whether providing the personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract and the possible consequences of failing to provide such data, and
- the existence of automated decision-making, including profiling and the consequences of such processing.

Data subjects have several rights under GDPR including the right to:

- be informed of data processing,
- access and obtain a copy of their personal data,
- rectify inaccurate or incomplete information,
- erasure of personal data in certain circumstances (also called "right to be forgotten"),
- restrict data processing where the data is contested, the grounds for processing are contested, the data is no longer needed or processing is unlawful,
- data portability,
- object to the processing of personal data on the grounds of legitimate interest or public interest, and
- object to automated decision making for direct marketing purposes.

Data controllers must provide information upon request by a data subject within 1 month. This can be extended to 2 months in limited circumstances.

Data controllers are required to notify the data protection authority if there is a data breach without delay but no later than 72 hours after learning of the breach, unless it is determined the breach is not likely to risk the rights and freedoms of individuals. Notice needs to include the number and categories of individuals impacted, a contact within the organization and likely impact of the breach and

mitigation actions. If the breach is serious, data controllers also must notify data subjects without delay.

Significant penalties can be imposed on organizations for failing to comply with GDPR. There are 2 tiers of fines that may apply depending on the severity of the violation:

- For less severe violations, a fine may be imposed of up to 10 million euros (EUR) or 2 percent of the organization's global revenue from the preceding year, whichever is highest; and/or
- For more severe violations, fines may be imposed of up to EUR 20 million or 4 percent of the organization's global revenue in a year, whichever is highest.

Enforcement of GDPR fines is the responsibility of the data protection authority in each EU member state. This includes imposition of fines for noncompliance. In Spain, the *Agencia Española de Protección de Datos (AEPD)* oversees compliance with GDPR.

There are 10 criteria used to determine the whether a fine will be imposed and, if so, what amount:

- gravity and nature,
- intention,
- mitigation actions,
- precautionary measures taken,
- history,
- notification,
- data category,
- cooperation,
- certification, and
- other relevant factors.

In addition to fines, organizations that fail to comply or are in violation of GDPR may be liable for damages to the data subject. GDPR allows data subjects the right to seek compensation for material and non-material damages.

Business Incentives

Spain offers employers incentives to hire certain workers who might otherwise be disadvantaged or less likely to be employed. The purpose of the incentives is to encourage full and permanent employment. There are also several tax-related incentives.

Bonuses to hire employees with disabilities. Pursuant to Law 43/2006, employers can receive the following bonuses for hiring individuals with a disability or severe disability pursuant to an indefinite-period contract. The amount of the bonus varies depending on the age and gender of the individual, type of contract (indefinite versus fixed-term) and whether the individual is disabled or severely disabled. The amounts are as follows:

- EUR 4,500 annually for hiring a male employee with a disability who is under the age of 45 years old;
- EUR 5,350 annually for hiring a female employee with a disability who is under the age of 45 years old;
- EUR 5,700 annually for hiring a male or female employee with a disability who is over the age of 45 years old;
- EUR 5,100 annually for hiring a male employee with a severe disability who is under the age of 45 years old;
- EUR 5,950 annually for hiring a female employee with a severe disability who is under the age of 45 years old; and
- EUR 6,300 annually for hiring a male or female employee with a severe disability who is over the age of 45 years old.

Companies must maintain the stability of these workers for a minimum period of 3 years and, in the event of voluntary dismissal, fair dismissal or termination of the employment relationship for objective reasons, employers must replace them with other employees with the same conditions.

Employers can receive the following bonuses for hiring individuals with a disability or severe disability pursuant to a fixed-term contract (for the duration of the contract):

- EUR 3,500 annually for hiring a male employee with a disability who is under the age of 45 years old;
- EUR 4,100 annually for hiring a female employee with a disability who is under the age of 45 years old;
- EUR 4,100 annually for hiring a male employee with a disability who is over the age of 45 years old;
- EUR 4,700 annually for hiring a female employee with a disability who is over the age of 45 years old;
- EUR 4,100 annually for hiring a male employee with a severe disability who is under the age of 45 years old;
- EUR 4,700 annually for hiring a female employee with a severe disability who is under the age of 45 years old;
- EUR 4,700 annually for hiring a male employee with a severe disability who is over the age of 45 years old; and
- EUR 5,300 annually for hiring a female employee with a severe disability who is over the age of 45 years old.

An individual is deemed to be severally disabled if they have a mental or intellectual disability equal or superior of 33% or physical or sensorial disability equal or superior 65%.

Bonuses to hire unemployed employees. Pursuant to Law 8/2019, employers can receive a bonus for hiring employees considered long-time unemployed. The amount of the bonus is EUR 1,300 annually for hiring a male employee and EUR 1,500 for hiring a female employee. The employment contract must be for an indefinite term and can be either full- or part-time. If hired part-time, the amount of the bonus is proportional to the working hours agreed to in the contract.

Individuals qualify as long-term unemployed if they are registered with the employment office for at least 12 of the 18 months prior to hiring.

The employer cannot terminate the employment contract before 3 years absent objective cause or for disciplinary reasons.

Bonuses to hire socially excluded workers. Employers are entitled to a bonus for hiring socially excluded workers. The bonus is EUR 600 (for an indefinite

employment contract), EUR 500 (for a fixed-term contract) and EUR 650 (for conversion of a fixed-term contract to an indefinite contract). The bonus is available for 4 years.

For socially excluded workers coming from an insertion company and hired by an employer that is not an insertion company or special employment center, the bonus amount is as follows:

- For indefinite employment contracts, EUR 1,650 in year 1 and EUR 600 in years 2 through 4, and
- For fixed-term employment contracts, EUR 1,650 in year 1 and EUR 500 in years 2 through 4 (only while the employment contract is in force).

Bonus to hire victim of gender violence, domestic violence, victim of terrorism or victim of human trafficking. Pursuant to Law 43/2006, employers are entitled to a bonus for hiring unemployed persons who are considered by the government agencies to be a victim of gender violence, domestic violence, victim of terrorism or victim of human trafficking. The bonus amount is:

- For victims of human trafficking, EUR 1,500 (indefinite employment contract) a year or EUR 600 (fixed-term contract) a year, both for up to 2 years;
- For victims of gender violence, EUR 1,500 (indefinite employment contract) a year for 2 years, EUR 600 (fixed-term contract) for the term of the contract and EUR 1,500 (for conversion of a fixed-term contract to an indefinite contract) a year for 2 years;
- For victims of terrorism, EUR 1,500 (indefinite employment contract) a year for 4 years, EUR 600 (fixed-term contract) a year for the term of the contract and EUR 1,500 (for conversion of a fixed-term contract to an indefinite contract) a year for 4 years; and
- For victims of domestic violence, EUR 850 (indefinite employment contract) a year for 4 years, EUR 600 (fixed-term contract) a year for the term of the contract and EUR 850 (for conversion of a fixed-term contract to an indefinite contract) a year for 4 years.

Reduction in social security for temporary interim contracts. This reduction is for interim contracts entered to replace an employee who is on leave of absence to care for family members. Under Legislative Decree 2/2015, the

employer is entitled to a reduction in the social security contributions for common contingencies in the amounts specified below. Workers must be beneficiaries of unemployment benefits, whether contributory or assistance, for more than 1 year.

The reductions are as follows:

- 95% during the first year,
- 60% during the second year, and
- 50% during the third year.

The benefits will not apply to hiring the spouse, ascendants, descendants and other blood relatives (including the second-degree relatives) of the employer, or those who hold management positions or are members of the administrative bodies of companies.

Employers are entitled to a 100% bonus on social security contributions, including those for occupational accidents and diseases, and the employer's contributions for the joint collection of contributions related to interim contracts with unemployed persons to substitute workers whose employment contract is suspended for the following:

- During maternity leave, adoption, foster care, risk during pregnancy, risk during breastfeeding or suspension due to paternity, adoption, pre-adoptive or permanent foster care (Law 11/1998 and Law 12/2001); and/or
- Victims of gender violence who are moving or changing their place of work (Law 1/2004).

This bonus will only apply during the suspension of the activity and if the interim contract of the substituted person is at the same time. If the employee does not use the entitled rest period (maternity, adoption, paternity and related leaves), the benefits will be extinguished at the moment of their reincorporation to the company. In the case of interim contracts to replace employees who are victims of gender violence while they relocate, the benefit is for a maximum of 6 months.

Tax credits and incentives. The following tax incentives are available to eligible

businesses:

- A 50% credit on corporate income tax for income generated from activities in Ceuta and Mellila, both port cities located on the northern coast of Morocco on the Mediterranean;
- A 25% tax credit for research and development activities. This credit can be as high as 42% if a company meets certain requirements. An additional tax credit of 17% for staff expenses related to employees solely performing research and development activities; and
- A 12% tax credit for technological development, with additional benefits for small- and medium-sized companies for expenses incurred related to projects started after June 25, 2020. Companies that are not eligible for the small- and medium-business credit may be eligible for tax incentives for working with a small- and medium-sized business.

There are also several incentives specifically for film productions and live performing arts.

Business Entities & Formation

The Capital Companies Law governs business entities in Spain. Commonly used entity structures include both public and private limited companies. Branches are covered under Mercantile Law.

- **SL.** A *Sociedad Limitada* (SL) is a private limited company commonly used for doing business in Spain. The corporate liability of an SL shareholder is limited to their capital investment.
- **Branch.** A branch is called a *sucursal* in Spain. A foreign company must be a limited company, such a corporation or limited liability company (LLC), to open a branch office in Spain. The foreign company is liable for the branch's activities. Residency requirements apply as noted below.

The requirements of an SL and a branch office are discussed below.

Capital Requirements

The minimum share capital for an SL is EUR 3,000.

Shareholder Requirements

An SL may have 1 shareholder that can be a natural person or a legal entity.

Shares

Spain has no requirements for the par value of stock.

Board of Directors

Most countries require companies to have a board of directors or similar governing body. The board represents a company's owners or shareholders. In most countries, a board is made up of 1 or more individuals, and meets at least once a year to set policies for corporate management and oversight.

An SL's managing body may consist of an individual as the sole director, 2 or more individuals acting jointly or jointly and severally, or a board of directors. The board of directors of an SL must have a minimum of 3 members and no more than 12.

Shareholder Meetings

An annual general shareholders meeting (AGM) must be held for an SL. The first AGM should be conducted within the first 6 months of incorporation.

Local Office

Both an SL and a branch must have a registered office in Spain.

Agent for Service

Spain does not have an agent for service requirement.

However, a branch must appoint a Spanish resident as a tax representative.

Company Secretary

A company secretary is required for an SL only if it has a board of directors.

Name of Entity

An SL and a branch must get a name reservation certificate from the Central Mercantile Registry, called the *Registro Mercantil Central* (RMC). The name must be unique and not already registered.

The name of an SL must end with a description of the type of company, either in full words or abbreviated, "Sociedad Limitada" or "SL."

The name of a branch must contain the name of the foreign company and end

with “branch in Spain” or “Sucursal en España.”

Entity Registration/Filing Compliance

Before an SL can be set up, all directors or shareholders will need a foreigner’s identification number, called a *Número de Identificación de Extranjero* (NIE). The identification number for a corporate shareholder is a *Certificado de Identificación Fiscal* (CIF) number. The NIE and CIF are also referred to as a tax identification number.

An SL is formed by signing a public incorporation deed before a notary public.

The incorporation deed includes:

- the SL’s articles of association,
- the name reservation certificate,
- the SL’s tax identification number, and
- a certificate from a bank verifying that the share capital was deposited.

Next, the incorporation deed must be filed at the Mercantile Registry.

A branch also is required to get a tax identification number.

To register a branch, a foreign company submits:

- notarized copies of its articles of incorporation and certificate of incorporation,
- name and details of its directors,
- its share capital information,
- a notarized power of attorney,
- the tax identification number, and
- the names of the representatives who will act for the foreign company in Spain.

In addition, a branch must be registered and approved by the local authorities of each state where the branch is to be formed.

Digital signature. Spain strongly encourages the use of digital signatures, called digital or electronic certificates, for companies, branches and individuals. The digital signature is used as identification in interactions with government agencies,

including the Spanish Tax Agency (*Agencia Tributaria*), Social Security Services (*Seguridad Social*) or the Mercantile Registry. One can be obtained from a third-party provider approved by the government.

Local Ownership/Management Requirements

A branch office in Spain must have at least 1 manager who is a resident of Spain.

Local Bank Accounts

A bank account is required to register an SL or a branch.

Licenses and Permits

Doing business in some industries may require special licenses or registration in special public registers.

Local Accounting Rules

An SL or a branch may follow the accounting standards of the Spanish Generally Accepted Accounting Principles (GAAP), but Spain does not impose specific accounting standards for either an SL or a branch.